

REMARKS

The above-identified application is United States application serial number 09/737,435 filed on December 11, 2000. Claims 1 through 58 are pending in the application, and are subject to a restriction requirement. Applicant elects Group II, Species II with traverse.

Election/Restrictions

The Examiner requires election of one of the following groups of claims for prosecution in this case:

- Group I: Claims 52-54 and 55-58, drawn broadly to a system for wireless audio retrieval, classified in class 455, subclass 412.
- Group II: Claims 1-30, 43-51, drawn to the telephone for requesting and playing the audio, classified in class 455, subclass 412.
- Group III: Claims 31-36, drawn to a handheld device, classified in class 455, subclass 550.
- Group IV: Claims 37-42, drawn to the system that provides audio, classified in class 455, subclass 412.

The Examiner also requires an election of species to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 28, 31, 37, 43, 52, and 55 are considered to be generic. The Examiner has divided the claims into the following species:

- I) Claims 2-6, 17, 19, 22, 25, 32, 38-39, 53 directed to description and audio contents.
- II) Claims 7-10, 29-30, 33-34, 40-42, 44-47, 54 directed to first and second logics.
- III) Claims 11-14, 18, 20-21, 35, 48-49, 56 directed to visual display.
- IV) Claims 15-17 directed to voice call termination.
- V) Claims 23-24 directed to message communication.

KOESTNER BERTANI LLP  
18003 MACARTHUR BLVD.  
SUITE 400  
IRVINE, CA 92612  
TEL (949) 251-0350  
FAX (949) 251-0260

VI) Claims 26, 36 directed to wireless.

VII) Claims 27 directed to none VoIP.

Applicant assumes that the Examiner included Claim 17 in Species IV by mistake, since Claim 17 is directed to each description being different in content from another description.

Claims 1, 7-10, 28-30, 43-47 are to be further examined. Currently withdrawn Claims 2-6, and 11-27 will be allowable if generic Claim 1 is determined to be allowable. Currently withdrawn Claims 48-51 will be allowable if generic Claim 43 is determined to be allowable.

Claim 6 depends from Claim 1 and pertains to using the selection of first description identified by the data connection to play the audio content during the voice call. No undue burden is believed to be placed on the Examiner to consider Claim 6. Applicant respectfully submits that Claim 6 is not a distinct species and should be included in the same group of inventions as other claims dependent on Claim 1 to be examined.

Claim 15 depends from Claim 1 and pertains to terminating the voice call on completion of playing of the first audio content. No undue burden is believed to be placed on the Examiner to consider Claim 15. Applicant respectfully submits that Claim 15 is not a distinct species and should be included in the same group of inventions as other claims dependent on Claim 1 to be examined.

Claim 16 depends from Claim 1 and pertains to suspending the data connection during the voice call. No undue burden is believed to be placed on the Examiner to consider Claim 16. Applicant respectfully submits that Claim 16 is not a distinct species and should be included in the same group of inventions as other claims dependent on Claim 1 to be examined.

KOESTNER BERTANI LLP  
18652 MACARTHUR BLVD  
SUITE 400  
IRVINE, CA 92612  
TEL (949) 251-0250  
FAX (949) 251-0250

Claim 17 depends from Claim 1 and pertains to each description being different in content from another description. No undue burden is believed to be placed on the Examiner to consider Claim 17. Applicant respectfully submits that Claim 17 is not a distinct species and should be included in the same group of inventions as other claims dependent on Claim 1 to be examined.

Claim 19 depends from Claim 1 and pertains to performing the placing of the voice call automatically in response to said selection of first description. No undue burden is believed to be placed on the Examiner to consider Claim 19. Applicant respectfully submits that Claim 19 is not a distinct species and should be included in the same group of inventions as other claims dependent on Claim 1 to be examined.

Additionally, Claim 48 depends from Claim 47 and pertains to each description in said plurality [of categories] identifying a news service. The Examiner incorrectly included Claim 48 in Species III as being directed to a visual display. Claims 47 and 49 are directed to displaying categories and subcategories, respectively, of information to the user, however. No undue burden is believed to be placed on the Examiner to consider Claims 47-49. Applicant respectfully submits that Claim 47-49 are not distinct species and should be included in the same group of inventions as other claims dependent on Claim 43 to be examined.

Claim 50 is directed to a computer readable storage medium encoded with instructions to perform the method of Claim 43, while Claim 51 pertains to a signal encoded in a carrier medium and including instructions to perform the method of Claim 43. No undue burden is believed to be placed on the Examiner to consider Claims 50 and 51 because they are simply

KOESTNER BERTANI LLP  
1662 MACARTHUR BLVD.  
SUITE 400  
IRVINE, CA 92612  
TEL. (949) 251-0250  
FAX (949) 251-0260

different mediums for distributing the method of Claim 43. Applicant respectfully submits that Claims 50 and 51 should be allowable if Claim 43 is determined to be allowable.

### CONCLUSION

Claims 1, 7-10, 28-30, 43-47 are elected for further examination. Currently withdrawn Claims 2-6, and 11-27 will be allowable if generic Claim 1 is determined to be allowable. Currently withdrawn Claims 48-49 will be allowable if generic Claim 43 is determined to be allowable. Withdrawn Claims 6, 15, 16, 17, 19, and 48-49 are not believed to be distinct species, and further examination of these claims is requested. Claims 50 and 51 should be allowable if Claim 43 is determined to be allowable. The Examiner is invited to telephone the undersigned at (949) 251-0250 if there are any issues raised by this response that may be resolved by telephone.

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, Technology Center 2600, Before Final at (703) 872-9314 on the date shown below:

Mary Jo Bertani  
(Signature)

Mary Jo Bertani  
(Printed Name of Person Signing Certificate)

February 6, 2004  
(Date)

Respectfully submitted,

Mary Jo Bertani

Mary Jo Bertani

Attorney for Applicant(s)  
Reg. No. 42,321

KOESTNER BERTANI LLP  
18663 MACARTHUR BLVD.  
SUITE 400  
IRVINE, CA 92612  
TEL (949) 251-0330  
FAX (949) 251-0360